

Bills Committee on Mass Transit Railway Bill

Property Development Rights

PURPOSE

This paper is submitted in response to the request made by Members of the Bills Committee on the Mass Transit Railway Bill, at its meeting on 11 November 1999, that the Administration should provide further information on the existing policy on granting property development rights, where appropriate, to MTRC in connection with its railway projects. Members have also asked the Administration to explain why this policy, which also applies to KCRC, should continue to apply to MTRC after privatization.

BACKGROUND AND ARGUMENT

Integration of Railway and Property Development

2. For planning, safety and technical reasons, the Government considers it generally necessary to make property development, where appropriate, above railway stations and depots, and on land adjacent to the railway, an integral part of the railway development. The MTRC has been designing and constructing above station property for 25 years. The current arrangement presents the most effective use of resources.

3. With the Corporation held responsible for the entire station site, the above-station or depot development can be most optimally planned and utilized. Master plans are drawn up well in advance of the commencement of works. The necessary infrastructure to support the development and any property enabling works, such as foundations,

utilities trenches and internal roads, which are intricately integrated with the railway station structures, are done at the most appropriate time in the most efficient way. This coordinated approach would ensure that a comprehensive development is accomplished.

4. The integration of property and station developments also ensures that safety and operational aspects of the railway are safeguarded. With one organization managing the development and the railway, responsibilities are clearly defined and any incidents at the property development having an effect on the railway can be properly managed.

5. These important planning, construction and operational considerations will be as valid after privatization as at present. We should maintain the successful formula which has served the community well for a quarter of a century.

Property Development Right is not a Subsidy

6. It is important to note that property development right is not a form of subsidy to MTRC. A subsidy consists of either Government expenditure or revenue foregone. The grant of property rights to MTRC, on the other hand, does not come into any of these categories as full market premium for the land is charged.

7. The profits made by the Corporation from the property development arise from a sharing of profit between MTRC and the developers. When above-station developments are put out to tender by MTRC, developers agree to offer a share of their profit to the Corporation.

This profit share is highly sensitive to market conditions. MTRC is required to bear a development as well as financial risk in the process.

Open Tender for Property Development Rights

8. There have been suggestions that :-

- (a) as the property development rights are not awarded through open tender, the Government is not receiving the full market value of those rights; and
- (b) the Government should consider putting the property development rights to open tender and injecting the cash generated from the tender bid into MTRC in the form of either a loan or equity.

9. As demonstrated above, the Government receives the full market value of these rights although they are not awarded through open tender. The team of professional valuers in the Lands Department regularly assesses land premium for various types of land transactions and imposes these assessments on developers. The grant of the land to MTRC for property development is subject to the same process. In assessing the full market premium payable by MTRC for the property development rights, appropriate valuation techniques is used, including taking reference from recent open market sales prices of comparable properties. In addition, the potential interface problem between the railway corporation and an independent developer could have a depressing effect on tender bids if those rights were put to open tender. For example, the independent

developer may factor into his cost additional expenditure relating to coordination with and possible claims from the railway corporation. There is therefore no guarantee that open tender will fetch a price over and above that which the Government could obtain from the Corporation.

10. In respect of the suggestion in para 8(b), open tender under such circumstances will not necessarily result in a higher premium for the development right being achieved then through valuation conducted by the Lands Department, for the reasons explained above. Furthermore, the MTRC's share of profits generated by such developers have all along assisted it to finance and operate the railway system on a commercially prudent basis without requirement for Government subsidy. Were Government to set aside the proceeds from the tender of property development rights and earmark them for the specific propose of MTRC railway projects, the MTRC would bear an additional financial burden if it is expected to repay such loan or achieve a return on such equity at commercial rates. Any rates at less than commercial levels would entail a Government subsidy.

11. Without specific legislative provision, such an approach would also amount to hypothecation of General Revenue, contrary to the Public Finance Ordinance.

CONCLUSION

12. Historically, MTRC has played a useful role in the property developments over its railway stations and depots and has established new communities along the railway footprint. It undertakes planning for the

property developments, building a substantial part of the foundations and providing other common infrastructure. The property developments also help provide early patronage to the railway system. We believe MTRC should be allowed to continue its role in integrating railway and property developments after privatization. The existing policy of granting property development rights, where appropriate, on top of stations and depots, and on land adjacent to the railway will continue. The current policy of charging MTRC the full market value of the land granted for such property developments will remain unchanged.

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Transport Bureau
17 November 1999